



DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, LOUISVILLE
CORPS OF ENGINEERS
REGULATORY BRANCH, MCE SECTION
6855 STATE ROAD 66
NEWBURGH, INDIANA 47630
October 3, 2016

Operations Division
Regulatory Branch (West)
ID No. LRL-2013-00635-gjd

Mr. Kemal Williamson
President - Americas
Peabody Energy
Peabody Plaza
701 Market Street
St. Louis, Missouri 63101-1826

Dear Mr. Williamson:

This letter is a follow-up to our meeting of November 7, 2016 at the Louisville District Office. The meeting was in regard to your application for Department of the Army authorization to discharge dredged and/or fill material into "waters of the United States" located at the Seven Hills Mine Site, northwest of Boonville, in Warrick County, Indiana as outlined in your application, revised and submitted on January 19, 2016. The Corps of Engineers exercises regulatory authority under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) and Section 404 of the Clean Water Act (33 USC 1344).

Firstly, I would like to thank you for bringing your team of company representatives to meet with me and my staff. Our meeting primarily focused on my decision that the proposed Seven Hills Mine project constitutes a major Federal action that has the potential to significantly affect the quality of the human environment and does require the preparation of an Environmental Impact Statement (EIS). I appreciate you presenting your concerns regarding my decision. I have discussed the issues you raised during the meeting with my staff. As I stated at the conclusion of our meeting, I am committed that the correct decision for the review of this project is to complete an EIS. Furthermore, I believe it will be the most expeditious and legally defensible manner in making my decision whether to issue, issue with conditions or deny this request.

Nevertheless, you requested that we allow you to reach out to the agencies and various groups in an attempt to resolve or alleviate their concerns regarding this project as identified during the Public Notice comment period. My understanding is that this would be done with the goal of having those commenters withdraw their concern that an EIS be completed for this project and/or withdraw their request to elevate the decision in accordance the Section 404 (q) process and ultimately bring this project back into potential review in accordance with an Environmental Assessment. I would like to reiterate that I believe your time would be better spent moving the project forward into the EIS

process. However, if you desire to utilize this time to further engage the agencies and other commenters to potentially alter the course of this review, that is your prerogative. Be mindful, I am placing that burden on your team. Any meetings and conversations with the other interested parties are to be coordinated by you. In addition, I expect my staff to be kept fully apprised as to what efforts you are undertaking in this vein, and that all opportunities are afforded to my staff to be present during any meetings with these groups.

In the interest of maintaining an identifiable timeline, and unless otherwise advised by me, you will need to submit a list of qualified third party contract consultants, with a complete resume for each, who have experience and knowledge with the National Environmental Policy Act and Section 404 of the Clean Water Act as described in the October 3, 2016 notification letter. This list should be submitted to my Regulatory staff within 6 months, or by Monday, May 9, 2017 or I will consider this application withdrawn.

If we can be of any further assistance, or if you have any questions regarding this letter, please contact my staff. Any correspondence on this matter should refer to our ID Number LRL-2013-00635-gjd.

Sincerely,

ORIGINAL SIGNED

Christopher Beck
Colonel, Corps of Engineers
District Commander
RECORD COPY

Copy furnished:

DeLancey/OPF-MCE/wr/decision.wp.A1
Ricketts/OPF-MCE
Devine/OPF
Dowell/OP
Lengel/OC
Ryan/EL
Beck/D